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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,997	07/08/2003	Terrence Robert Davis	IMI-40075	1045

21015 7590 02/09/2007  
PYLE & PIONTEK  
221 N. LASALLE STREET,  
SUITE 2036  
CHICAGO, IL 60601

EXAMINER
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NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
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3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/615,997

Applicant(s)

DAVIS, TERRENCE ROBERT

Examiner

Frederick C. Nicolas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,10-13,16-18,20-24 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 10,11 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,16,17,20-24 and 27 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☒ Claim(s) 1,6,7,10-13,16-18,20-24 and 27 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 1/30/2007
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1,6-7,17,20,22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I- As to claim 1, line 3, the claimed limitation "each inlet" has been positively recited in line 2. This renders the claims confusing as it raises issues of double inclusion.

II- Claim 1 recites the limitation "the dispense" in line 6 and "the dispense valves" in line 7. There are insufficient antecedent basis for this limitation in the claim.

III- As to claim 17, lines 2 and 3, the claimed limitation "air" first occurrence has been positively recited in line 5. This renders the claims confusing as it raises issues of double inclusion.

IV- As to claim 20, lines 5 and 6, the claimed limitation "air" has been positively recited in line 5. This renders the claims confusing as it raises issues of double inclusion.

V- As to claim 22, lines 7 and 8, the claimed limitation "air" has been positively recited in line 5. This renders the claims confusing as it raises issues of double inclusion.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,6-7,23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. 4,266,726.

Brown et al. disclose a dispense head (11) comprising a plurality of inlets (13,123,15,85,103) for connection to separate beverage supply lines, each inlet communicating with a dispense valve (17,25) opening to a common dispense nozzle (119), each inlet opens to an inlet section of the dispense nozzle via a respective dispense valve and the inlet sections merge into a common outlet section as seen in Figure 3, a lower flow rate of beverage is provided at the start of the dispense and the end of the dispense by selectively opening or closing the dispense valves at different times during the dispense (col. 3, ll. 27-68 onto col. 4, ll. 1-50), such that at one of the start of the dispense and the end of the dispense at least one, but less than all, of the dispense valves are closed (col. 3, ll. 27-68 onto col. 4, ll. 1-68 onto col. 5, ll. 1-56), the inlet sections are inclined relative to the outlet section and converge to merge smoothly into the outlet section avoiding sudden changes in the direction of flow as seen in Figure 3, the dispensing valves are on/off solenoid valves (19,27), a control unit (125).

5. Claims 16,21,27 are rejected under 35 U.S.C. 102(b) as being anticipated by Tracy 4,213,014.

Tracy discloses a dispense head (10) comprising an inlet (13) for connection to a beverage supply line (23), the inlet communicating with a dispense valve opening to a dispense nozzle (19) having an outlet (40), means for draining the dispense nozzle downstream of the dispense valve through the dispense nozzle outlet when the dispense valve is closed (col. 3, ll. 24-55), the drain means including means for admitting air (52) to the dispense nozzle downstream from the dispense valve and upstream from the outlet as seen in Figure 1.

Note: the applicant is advised that any action following the words "for" in the claims indicates an intended use for the product and does not limit the structure of the product in the claims.

#### ***Allowable Subject Matter***

6. Claims 20 and 22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. Claims 12-13,17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

8. Applicant's arguments filed 12/18/2006 have been fully considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

FN

January 30, 2007

A handwritten signature in black ink, appearing to be 'F. Nicolas', is written next to the date '1/30/07'.

Frederick C. Nicolas  
Primary Examiner  
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